

**REMARKS/ARGUMENTS**

With this amendment, Claims 1-20 and 25-26 are pending. Claims 21-24 are cancelled without prejudice to subsequent revival. Applicants acknowledge a phone interview on June 27, 2003, between Examiner Yu and Beth Kelly, applicants' representative, and agree that no authorization for an Examiner's amendment was given at that time. Applicants also thank the Examiner for withdrawal of rejections under 35 U.S.C. §112, second paragraph, and for withdrawal of rejections under 35 U.S.C. §102.

**I. Status of the claims**

Claims 21-24 are cancelled without prejudice to subsequent revival.

Claims 1, 12, 18 and 25 are amended to recite "induces" apoptosis, rather than "affects" apoptosis. Support for this amendment is found throughout the application, for example at Example 6, page 46, and Figure 9. This amendment adds no new matter.

**II. Rejection under 35 U.S.C. §112, first paragraph, enablement**

Claims 1, 3, 4, 6-12, 25 and 26 are rejected under 35 U.S.C. §112, first paragraph, because the specification allegedly fails to provide enablement for the claimed invention. The Examiner, at page 3 of the Office Action, indicates that the rejection would be obviated by amending the claims to read "inducing" apoptosis. In order to expedite prosecution, claims 1, 12, 18 and 25 are amended to recite the Apop3 protein "induces" apoptosis, rather than "affects" apoptosis.

**CONCLUSION**

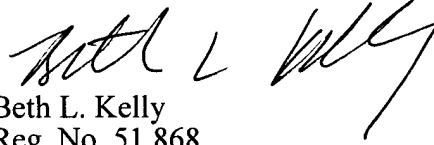
In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Appl. No. 09/762491  
Amdt. dated Nov. 25, 2003  
Amendment under 37 CFR 1.116 Expedited Procedure  
Examining Group 1642

PATENT

Respectfully submitted,

  
Beth L. Kelly  
Reg. No. 51,868

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
Attachments  
BLK:blk  
60078479 v1